

REMARKS

Applicants submit the above amendments and these Remarks in response to the Office Action dated October 28, 2009. Claims 1-11, 14, 15 and 17-19 have been previously canceled. Claims 12 and 28-30 are currently amended and no claim has been added by way of this response. Thus, claims 12, 13, 16 and 20-30 are currently pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Response to Rejections Under Section 112:

Claims 12 and 28-30 have been amended to overcome the rejection under 35 U.S.C. §112. Specifically, the term “generally” has been deleted from the claims, and the claim language has been amended to clarify that the embossing includes the straight and parallel ribs.

Response to Rejections Under Section 103:

The Examiner has rejected claims 12, 13, 16 and 22-30 under 35 U.S.C. §103(a) as being unpatentable by Suzuki et al. (hereinafter “Suzuki”) in view of Enami. Regarding the claimed “straight and parallel ribs,” the Examiner has argued that such a modification would have involved a mere change in the shape of a component, and would have been an obvious matter of design choice because Suzuki teaches that the ridges disclosed therein are not limited to any shapes. The Examiner also cites Enami and concludes that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to rotate the ribs of the plate to Suzuki relative to one another because Enami teaches that such orientation of plates facilitates formation of coolant passages between separator plates.

Applicants submit that providing an embossing with parallel and straight ribs is not a simple matter of design choice. Indeed, Suzuki expressly teaches away from such a design choice. In columns 1 and 2, Suzuki describes prior art separators that are illustrated in Figs. 12-16. These prior art separators include an embossing that has parallel and straight ribs, and Suzuki describes the shortcomings of the cited prior art. In the embodiment disclosed in Fig. 12, the crest surfaces of the embossing are held in abutment against each other, therefore, the cooling water cannot be passed laterally between the plates. Suzuki also refers to a solution to the prior art shown in Fig. 14 in which a spacer is placed between the separator plates so

cooling water can pass laterally between the separators. However, Suzuki points out that such a design may unnecessarily add weight to the device and may otherwise complicate the manufacturing process. See column 2, lines 55-60. Thus, Suzuki actually teaches away from providing separator plates that have an embossing that include straight and parallel ribs. Accordingly, it would not have been obvious to rotate the plates of Suzuki because Suzuki provides specific designs that create the water coolant passages and rotating the plates in Suzuki may render it inoperative. In view of the foregoing, the Applicants submit that Examiner has failed to establish a *prima facie* case of obviousness.

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants respectfully request that the Examiner reconsider the rejections and timely pass the application to allowance. All correspondence should continue to be directed to our below-listed address. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated:

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